

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA, :
Plaintiff, : Case No. 3:13cr00155
vs. : District Judge Timothy S. Black
Chief Magistrate Judge Sharon L. Ovington
JIMMY L. POWELL, :
Defendant. :

REPORT AND RECOMMENDATIONS¹

This case came on for hearing on November 13, 2013. The United States was represented by Assistant United States Attorney Andrew Hunt and Defendant was represented by Mr. Peter Russell Certo, Jr.

The parties have entered into a plea agreement which has been filed of record. The undersigned carefully inquired of Defendant regarding his understanding of the agreement as well as his competence to understand the agreement. Having fully inquired, the undersigned Judicial Officer finds that Defendant's tendered plea of guilty to Counts 1 and 2 of the Information is knowing, intelligent, and voluntary. Based on the statement of facts as set forth in the plea colloquy the undersigned finds that there is a sufficient factual basis for

¹ Attached hereto is NOTICE to the parties regarding objections to this Report and Recommendations.

a finding of guilt as to Counts 1 and 2.

It is accordingly recommended that the Court accept Defendant's plea of guilty to Counts 1 and 2 of the Information and find Defendant guilty as charged in Count 1 of Conspiracy to Distribute and Possession with Intent to Distribute 100 Grams or More of Heroin, a Schedule I Controlled Substance, in violation of Title 21 U.S.C. §§ 841(a)(1) and (b)(1)(B) and 846; and Count 2 of Benefits Fraud in violation of 7 U.S.C. § 2024(b).

Pending the Court's acceptance of Defendant's pleas, Defendant has been referred to the Probation Department for a pre-sentence investigation.

November 13, 2013

s/Sharon L. Ovington
Sharon L. Ovington
Chief United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within **FOURTEEN** days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to **SEVENTEEN** days because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within **FOURTEEN** days after being served with a copy thereof.

Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).